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DEC 22 2005

OFFICE OF PETITIONS

In re Application of :
Bateman, et al. : DECISION ON PETITION
Application No. 09/940,419 :
Filed: August 29, 2001 :
Docket No.: 0100/0134 :
:

This is a decision on the petition to revive under 37 CFR 1.137(a) filed September 28, 2005. The alternative petition under 37 CFR 1.137(b) is deemed moot and has not been considered on the merits. Accordingly, no fee is due in connection with the alternative petition under 37 CFR 1.137(b). The required \$500.00 petition fee in connection with the petition under 37 CFR 1.137(a) has been duly charged.

This application became abandoned April 27, 2005 for failure to timely submit a proper reply to the final Office action mailed January 26, 2005. The final Office action set a three month shortened period of time for reply. No petition for extension of time is of record. Notice of Abandonment was mailed September 21, 2005.

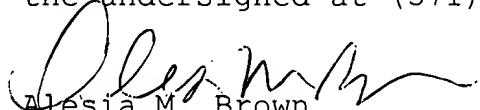
Petitioner asserts that a response to the final Office action was timely submitted April 11, 2005 and has submitted as proof of submission and receipt of said reply a copy of an "Auto-Reply Facsimile Transmission" which bears a receipt date of April 11, 2005.

A review of the official application file does not indicate receipt of the response allegedly submitted April 11, 2005. It is noted that the copy of the response allegedly resubmitted April 11, 2005 lacks a certificate of facsimile transmission in accordance with 37 CFR 1.8, however, in view of the copy of the "Auto-Reply Facsimile Transmission," the instant petition has been reviewed and found in compliance with the provisions of 37 C.F.R. § 1.137(a)

Accordingly, the petition under 37 CFR 1.137(a) is hereby **GRANTED**.

The application file is being forwarded to Technology Center 3700 for consideration of the proposed response and, if applicable, RCE.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.



Alesia M. Brown

Petitions Attorney
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